

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nicholas Venduras	Team: Squad #8	CCRB Case #: 202100183	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/03/2020 7:24 PM	Location of Incident: Castle Hill Avenue & Randall Avenue	Precinct: 43	18 Mo. SOL 6/3/2022	EO SOL 6/3/2022	
Date/Time CV Reported Fri, 12/04/2020 12:16 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 12/04/2020 12:16 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Acevedo	19258	962197	PSA 8
2. POM Miguel Perea	19829	962678	PSA 8
3. POM Christian Rodriguez	22699	964247	PSA 8
4. POM Freddy Difo	08770	957544	PSA 4
5. POM William Corchado	13567	957487	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.POM William Corchado	Abuse: Police Officer William Corchado stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Peter Acevedo	Abuse: Police Officer Peter Acevedo stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Miguel Perea	Abuse: Police Officer Miguel Perea stopped the vehicle in which § 87(2)(b) was an occupant.	
D.POM Freddy Difo	Abuse: Police Officer Freddy Difo stopped the vehicle in which § 87(2)(b) was an occupant.	
E.POM Christian Rodriguez	Abuse: Police Officer Christian Rodriguez stopped the vehicle in which § 87(2)(b) was an occupant.	
F.POM William Corchado	Abuse: Police Officer William Corchado threatened to issue summons to § 87(2)(b)	
G.POM William Corchado	Abuse: Police Officer William Corchado frisked § 87(2)(b)	
H.POM William Corchado	Abuse: Police Officer William Corchado searched § 87(2)(b)	
I.POM William Corchado	Abuse: Police Officer William Corchado frisked an individual.	
J.POM William Corchado	Abuse: Police Officer William Corchado searched an individual.	
K.POM Freddy Difo	Abuse: Police Officer Freddy Difo frisked individuals.	
L.POM Freddy Difo	Abuse: Police Officer Freddy Difo searched an individual.	

Officer(s)	Allegation	Investigator Recommendation
M.POM William Corchado	Abuse: Police Officer William Corchado searched the vehicle in which § 87(2)(b) was an occupant.	
N.POM Freddy Difo	Abuse: Police Officer Freddy Difo searched the vehicle in which § 87(2)(b) was an occupant.	
O.POM Peter Acevedo	Abuse: Police Officer Peter Acevedo frisked § 87(2)(b)	
P.POM Peter Acevedo	Abuse: Police Officer Peter Acevedo threatened to arrest an individual.	
Q.POM William Corchado	Abuse: Police Officer William Corchado failed to provide § 87(2)(b) with a business card.	
R.POM Freddy Difo	Abuse: Police Officer Freddy Difo failed to provide § 87(2)(b) with a business card.	
S.POM Peter Acevedo	Abuse: Police Officer Peter Acevedo failed to provide § 87(2)(b) with a business card.	
T.POM Miguel Perea	Abuse: Police Officer Miguel Perea failed to provide § 87(2)(b) with a business card.	
U.POM William Corchado	Abuse: Police Officer William Corchado failed to provide an individual with a business card.	
V.POM Freddy Difo	Abuse: Police Officer Freddy Difo failed to provide individuals with a business card.	
W.POM Christian Rodriguez	Abuse: Police Officer Christian Rodriguez failed to provide § 87(2)(b) with a business card.	

Case Summary

On December 4, 2020, § 87(2)(b) filed this complaint via the CCRB call processing system on behalf of her son, § 87(2)(b).

On December 3, 2020, at approximately 7:24 PM, Police Officer William Corchado, Police Officer Peter Acevedo, Police Officer Miguel Perea, Police Officer Freddy Difo and now-resigned Police Officer Christian Rodriguez, all of PSA 8 at the time of the incident, pulled § 87(2)(b) over while he and three other male individuals were driving on Castle Hill Avenue and Randall Avenue in the Bronx for excessively dark tints (**Allegations A – D: Abuse of Authority, § 87(2)(g) & Allegation E: Abuse of Authority, Miscellaneous – § 87(2)(g)**). PO Corchado allegedly gave § 87(2)(b) the option of getting a summons for the tints or letting the officers search the vehicle (**Allegation F: Abuse of Authority, § 87(2)(g)**). PO Corchado smelled marijuana coming from inside the vehicle and asked § 87(2)(b) to step out, frisked, and searched him (**Allegations G & H: Abuse of Authority, § 87(2)(g)**). The individual behind § 87(2)(b) who remains unidentified, admitted to having marijuana and PO Corchado frisked and searched him as well (**Allegations I & J: Abuse of Authority, § 87(2)(g)**). PO Difo also frisked two other unidentified passengers, searching one of them (**Allegations K & L: Abuse of Authority, § 87(2)(g)**).

As the four individuals waited at the rear of the vehicle with the other officers as instructed, PO Corchado and PO Difo searched § 87(2)(b)'s car but did not recover anything illegal (**Allegations M & N: Abuse of Authority, § 87(2)(g)**). At one point, PO Difo told PO Acevedo to frisk § 87(2)(b) again and he did (**Allegation O: Abuse of Authority, § 87(2)(g)**). PO Acevedo also told one of the individuals that providing a false name is a criminal charge (**Allegation P: Abuse of Authority, § 87(2)(g)**).

After the vehicle search, the officers used their discretion and let § 87(2)(b) and the other individuals leave without further law enforcement action. These officers did not offer any business cards to any civilian before leaving (**Allegations Q -V: Abuse of Authority, § 87(2)(g) & Allegation W: Abuse of Authority, Miscellaneous – § 87(2)(g)**).

The NYPD Legal Department provided five Body-Worn Camera (BWC) videos in regards to this case. (**Board Review 1**).

Findings and Recommendations

Allegation A: Abuse of Authority: Police Officer William Corchado stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B: Abuse of Authority: Police Officer Peter Acevedo stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation C: Abuse of Authority: Police Officer Miguel Perea stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation D: Abuse of Authority: Police Officer Freddy Difo stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation E: Abuse of Authority: Police Officer Christian Rodriguez stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation F: Abuse of Authority: Police Officer William Corchado threatened to issue summons to § 87(2)(b)

Allegation G: Abuse of Authority: Police Officer William Corchado frisked § 87(2)(b)

Allegation H: Abuse of Authority: Police Officer William Corchado searched § 87(2)(b)

Allegation I: Abuse of Authority: Police Officer William Corchado frisked an individual.

Allegation J: Abuse of Authority: Police Officer William Corchado searched an individual.

Allegation K: Abuse of Authority: Police Officer Freddy Difo frisked individuals.

Allegation L: Abuse of Authority: Police Officer Freddy Difo searched an individual.

Allegation M: Abuse of Authority: Police Officer William Corchado searched the vehicle in which § 87(2)(b) was an occupant.

Allegation N: Abuse of Authority: Police Officer Freddy Difo searched the vehicle in which § 87(2)(b) was an occupant.

Allegation O: Abuse of Authority: Police Officer Peter Acevedo frisked § 87(2)(b)

Allegation P: Abuse of Authority: Police Officer Peter Acevedo threatened to arrest an individual.

PO Corchado's BWC shows him driving a van with his fellow officers when at timestamp 0:08 he pulls § 87(2)(b)'s car over (**Board Review 3**). As he exits and walks towards the vehicle, a clear image of very dark tints is visible at timestamp 0:42 where the rear windshield looks practically black. At timestamp 1:00, when the sound comes on as he is at § 87(2)(b) open driver's window, PO Corchado says he smells marijuana and asks if they are smoking in the car. § 87(2)(b) says no, but PO Corchado or possibly PO Acevedo behind him at the driver's side says they can smell it. § 87(2)(b) says he smokes cigarettes at timestamp 1:08 and PO Corchado tells § 87(2)(b) to step out of the car.

§ 87(2)(b) alleged PO Corchado gave him the option of receiving a summons for the tints or letting the officer search his vehicle (**Board Review 2**). § 87(2)(b) believed the real reason they wanted to search his car was for guns. This is not captured on BWC. PO Corchado's BWC shows him frisking § 87(2)(b) at timestamp 1:15 and reaching into his front pocket at timestamp 1:40 before he tells § 87(2)(b) to step towards the rear of the car with other officers. At timestamp 2:20, the passenger behind the driver's seat says he has marijuana on him, and PO Corchado asks if that is all he has, to which the civilian answers yes. At timestamp 2:53, PO Corchado says due to the smell of marijuana they are going to have everyone get out. This civilian says they were not smoking, but PO Corchado says they do not need to smoke it and since he just admitted to having marijuana, they can search the car "bumper to bumper." PO Corchado then instructs this man to get out of the vehicle at timestamp 5:00 and frisks and searches him before sending him to the rear.

§ 87(2)(b) refused to provide the identities of the individuals inside his vehicle, and as such, the investigation was unable to obtain statements from them.

PO Corchado said in his CCRB interview the presence of marijuana in the vehicle at the time of the incident, which was before the law was changed, gave officers probable cause to have the occupants exit and search them (**Board Review 4**). PO Corchado also said the presence of marijuana also allowed officers to search the vehicle “bumper to bumper,” including the engine area.

Between the time PO Corchado searched § 87(2)(b) and the individual who admitted to having marijuana, PO Difo frisked the two other passengers sitting on the other side of the vehicle. PO Perea’s BWC shows PO Difo frisking the front passenger from timestamp 2:10 to timestamp 2:59 before telling him to go to the rear of the vehicle, this is also captured in PO Difo’s own BWC from timestamp 2:12 to timestamp 3:01 (**Board Review 5 & Board Review 6**). In both videos, he does not appear to put his hands inside any pockets and only feels over this individual’s clothes. PO Difo’s BWC shows him frisking the fourth individual in the backseat at timestamp 3:22 after asking to exit the vehicle. (**Board Review 6**). At timestamp 3:33, he asks what he has in his left jacket pocket and at timestamp 4:50, PO Difo removes a butter knife from his left inner breast pocket before telling him to go to the back of the car at timestamp 4:56. PO Difo explained during his interview that the knife he removed from the back passenger’s pocket was a legal butterknife, despite asking if the individual had anything that could cut him (**Board Review 7**).

When all individuals are at the rear of the car, PO Corchado and PO Difo search their respective sides of the vehicle as shown in PO Corchado’s BWC from timestamp 6:04 to 10:34 and PO Difo’s BWC from timestamp 5:02 to timestamp 10:30 (**Board Review 3 & Board Review 6**). They search seat pockets, the console area, feel under seats, look in the trunk and under the spare tire and finish with PO Corchado checking in the gas tank but they do not recover anything illegal.

At timestamp 5:37 of PO Acevedo’s BWC, just as PO Difo begins his vehicle search, he tells PO Acevedo in Spanish to frisk § 87(2)(b) which he does (**Board Review 8**). PO Difo said he did so because he had just found a knife, albeit legal, on another civilian and wanted to be sure there were no other weapons (**Board Review 7**). PO Acevedo said in his CCRB interview it did not matter if § 87(2)(b) had already been frisked by PO Corchado, he was allowed to check him again (**Board Review 9**). When one of the individuals says he does not have his ID on him, PO Acevedo tells him at timestamp 6:09 of his BWC, they will run his information, but if he provided them with a fake name, it will be a criminal charge (**Board Review 8**). PO Acevedo said he always warns civilians to provide their real names (**Board Review 9**).

Once the vehicle search was complete and the incident was concluding, the officers allowed the civilians to leave without issuing them any summonses.

Unless medically exempt, Section 375 (12-a) of the NYS Vehicle and Traffic Law does not allow a windshield to block more than 30% of the light and 70% or more of the light from the outside must pass through the window (**Board Review 11**). Because § 87(2)(b) s tints are visibly very dark, as shown in PO Corchado’s BWC, they were justified in stopping his vehicle to address the violation. § 87(2)(g). Because PO

Rodriguez is no longer with the NYPD. § 87(2)(g)

People v Norman, 142 A.D.3d 1107, determined that probable cause exists for the warrantless search of a defendant's vehicle, if an officer detects the smell of marijuana coming from inside (**Board Review 12**). Additionally, *People v. Chestnut*, 43 A.D. 2d 260 determined officers may search a vehicle and its occupants based on the smell of marijuana. (**Board Review 13**).

Given the passenger's admission on BWC to having marijuana, the officers very likely detected its distinctive odor coming from inside when near the open windows. The officers were then justified in asking the occupants to exit the vehicle, frisk and search them and search the car. § 87(2)(g)

At no point in the BWC, does PO Corchado give § 87(2)(b) the option of receiving a summons or allowing the officers to search his car. Additionally, as per the above analysis of the search allegations, PO Corchado did not need to bargain with § 87(2)(b) to search the vehicle. PO Corchado simply told § 87(2)(b) and the other occupants to exit the vehicle and then proceeded to search his car after searching the civilians. § 87(2)(g)

New York Penal Law 190.23 *False Personation* deems it to be a class B misdemeanor if a person knowingly misrepresents his or her actual name, date of birth or address to a "police officer or peace officer with intent to prevent such police officer or peace officer from ascertaining such information" after being warned not to do so (**Board Review 14**).

PO Acevedo correctly warned the individual that providing a false name and date of birth was a criminal charge. This was not an idle threat, but a fact, and therefore not misconduct. § 87(2)(g)

Allegation Q: Abuse of Authority: Police Officer William Corchado failed to provide § 87(2)(b) with a business card.

Allegation R: Abuse of Authority: Police Officer Freddy Difo failed to provide § 87(2)(b) with a business card.

Allegation S: Abuse of Authority: Police Officer Peter Acevedo failed to provide § 87(2)(b) with a business card.

Allegation T: Abuse of Authority: Police Officer Miguel Perea failed to provide § 87(2)(b) with a business card.

Allegation U: Abuse of Authority: Police Officer William Corchado failed to provide an individual with a business card.

Allegation V: Abuse of Authority: Police Officer Freddy Difo failed to provide individuals with a business card.

Allegation W: Abuse of Authority: Police Officer Christian Rodriguez failed to provide § 87(2)(b) with a business card.

Each officer acknowledged not offering a business card under the Right to Know Act to the individuals before leaving but all said they would have provided one upon request (**Board Review 4, Board Review 9, Board Review 10 & Board Review 7**).

PO Corchado said he did not offer one because this was only a routine vehicle stop. He knew officers are supposed to offer a business card when they generate a Stop Report when they stop and frisk someone but said this type of vehicle stop did not fall under that category (**Board Review 4**). PO Acevedo said he did not offer any because this stop had “probable cause” and he understood the law to require a business card when there is no probable cause for a stop (**Board Review 9**). PO Perea’s explanation as to why he did not offer a business card was similar to PO Acevedo’s in that while there are times a business card needs to be offered, such as a “Terry stop,” which he indicated is done without any reason, and this stop did not require one because of the infractions present (**Board Review 10**). PO Difo said they make so many vehicle stops per night, he would run out if he offered a card at each one since he only carries ten (**Board Review 7**). He said at the time, officers were required to provide a business card only when asked, and a search of a person or vehicle did not require one to be offered.

Patrol Guide Procedure 203-09, effective October 19, 2018, gives a series of steps officers must follow at the conclusion of law enforcement activities like a stop, frisk, or search of a vehicle (**Board Review 15**). Among them, offering business cards under the Right to Know Act from the required “appropriate amount” of an officer’s pre-printed or generic supply. This procedure is based on § 14-174 *Identification of Police Officers* of the New York City Administrative Code

NYC Administrative Code § 14-174 *Identification of Police Officers* sets out protocol of identification for all police officers engaging in law enforcement activities such as frisks and searches of persons or property, including vehicle. In such cases that do not result in arrests or summons, officers who conduct law enforcement activities must offer a business card to the person who is the subject of those law enforcement activities (**Board Review 16**).

As each officer stated, they did not offer any RTKA business cards at the conclusion of the incident. They all said they would have provided one upon request but did not think they needed to proactively offer one for this type of stop, which is a misunderstanding of the Right to Know Act. Officers must proactively provide business cards when they take law enforcement actions beyond a stop for a vehicle infraction, if such actions do not lead to a summons or arrest. Each officer should have offered § 87(2)(b) a RTKA business card for the additional actions, such as the frisks, search, and vehicle search by PO Corchado, PO Acevedo, and PO Difo beyond the vehicle stop. PO Difo should have also offered business cards to the two individuals he frisked, one of whom he searched. § 87(2)(g)

Because PO Rodriguez is no longer with the NYPD, § 87(2)(g)

Civilian and Officer CCRB Histories

Investigator:	<u>Nicholas Venduras</u> Signature	<u>Inv. Nicholas Venduras</u> Print Title & Name	<u>February 3, 2022</u> Date
Squad Leader:	<u>Ethan De Angelo</u> Signature	<u>IM Ethan De Angelo</u> Print Title & Name	<u>2/3/2022</u> Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date